

**ADOPTED REGULATION OF THE  
PERSONNEL COMMISSION**

**LCB File No. R024-16**

Effective December 21, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1 and 2, NRS 284.065 and 284.345.

A REGULATION relating to state personnel; revising provisions governing credit for annual leave and sick leave given to certain former employees of the Nevada System of Higher Education who transfer to the nonclassified, classified or unclassified service; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the Personnel Commission of the Division of Human Resource Management of the Department of Administration to adopt regulations governing the State Personnel System. (NRS 284.065)

Existing regulations provide the method for determining the amount of annual leave and sick leave that a former unclassified employee of the Nevada System of Higher Education (NSHE) is entitled to transfer to the employee’s new appointment in the classified or unclassified service governed by the Personnel Commission if that new appointment occurs without a break in service. (NAC 284.5405, 284.551) Specifically, the former employee of NSHE is allowed to transfer the amount of annual leave and sick leave that would have accrued to him or her as a classified or unclassified employee governed by the Personnel Commission less any annual leave or sick leave which he or she used during his or her position as an unclassified employee of NSHE.

This regulation amends existing regulations to provide that such a transfer applies to former employees of NSHE. Specifically, this regulation provides that if an employee occupying a position within NSHE is appointed without a break in service to the nonclassified, classified or unclassified service, his or her annual leave and sick leave will be transferred to the new appointment.

**Section 1.** NAC 284.5405 is hereby amended to read as follows:

284.5405 1. Except as otherwise provided in this section, any employee who returns to state service following a separation is eligible to accrue annual leave based on his or her total

service with the State after he or she has completed 3 years of continuous service. The employee must requalify after each break in service.

2. An employee who is rehired within 1 year after being laid off accrues annual leave at a rate based on his or her total state service. He or she may use the annual leave immediately upon accruing it if he or she has completed a total of 6 months of employment.

3. An employee with a permanent disability arising from a work-related injury or occupational disease who is reemployed following a separation from state service within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013 accrues annual leave at a rate based on his or her total state service. He or she may use the annual leave immediately upon accruing it if he or she has completed a total of 6 months of employment.

4. An employee who is rehired within 1 year after being laid off is entitled to buy back the balance of the annual leave for which he or she received payment in a lump sum on the date of the layoff. The rate of pay at which he or she is rehired applies to the buying back of annual leave.

5. An employee with a permanent disability arising from a work-related injury or occupational disease who is reemployed following a separation from state service within 1 year after the date on which he or she sustained the permanent disability as determined pursuant to NAC 284.6013 is entitled to buy back the balance of the annual leave for which he or she received payment in a lump sum at the time of separation. The rate of pay at which he or she is reemployed applies to the buying back of annual leave.

6. If an employee who was laid off before completing 6 months of employment is rehired within 1 year after the layoff, the amount of the unpaid annual leave he or she had earned before the layoff must be restored.

7. If a person eligible for military reemployment is reemployed, he or she accrues annual leave at the rate which he or she would have earned if he or she had not left state service.

8. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority, the balance of the employee's annual leave is charged to the agency to which he or she is appointed.

9. If a nonclassified employee, an ~~unclassified~~ employee ~~of~~ *occupying a position within* the Nevada System of Higher Education , or an employee included in the State Personnel System pursuant to NRS 284.022 is appointed without a break in service to the *nonclassified*, classified or unclassified service, his or her annual leave ~~{must be recomputed to reflect the amount that would have accrued to him or her as a classified or unclassified employee less any annual leave which he or she used during his or her nonclassified, Nevada System of Higher Education or governmental agency employment, and the remaining balance}~~ will be transferred to the new appointment. The amount of annual leave transferred by the employee pursuant to this subsection may not exceed the maximum amount which is permitted by the classified or unclassified rate of accrual as set forth in NRS 284.350 and NAC 284.538. The agency to which the employee is appointed is not responsible for payment of any annual leave in excess of the amount which is transferable. It is the responsibility of the employee who is transferring annual leave to seek payment of any excess amount of annual leave remaining to his or her credit from his or her former employer. ~~{If the amount of annual leave which is recomputed pursuant to this subsection~~

~~results in a negative amount, the employee will begin the new appointment in the classified or unclassified service without any hours of annual leave.~~

**Sec. 2.** NAC 284.551 is hereby amended to read as follows:

284.551 1. An employee who is rehired within 1 year after he or she is laid off is entitled to the restoration of the accrued and unused sick leave remaining in his or her account at the time of the layoff.

2. The balance of a seasonal employee's sick leave must be restored to him or her for each subsequent term of appointment if the employee is rehired within 1 year after the date of his or her last seasonal separation.

3. An employee who is reemployed within 1 year after sustaining a permanent disability arising from a work-related injury or occupational disease as determined pursuant to NAC 284.6013 is entitled to restoration of the accrued and unused sick leave that remained in his or her account at the time of separation.

4. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority, the balance of his or her sick leave is charged to the agency to which he or she is appointed.

5. If a nonclassified employee, an ~~unclassified~~ employee ~~of~~ *occupying a position within* the Nevada System of Higher Education, or an employee covered by NRS 284.022 is appointed to the *nonclassified*, classified or unclassified service without a break in service, his or her sick leave ~~must be recomputed to reflect the amount that would have accrued to him or her as a classified or unclassified employee less any sick leave which he or she used during his or her nonclassified, Nevada System of Higher Education or governmental agency employment and the remaining balance~~ will be transferred to the new appointment. ~~If the amount of sick leave~~

~~which is recomputed pursuant to this subsection results in a negative amount, the employee will begin the new appointment in the classified or unclassified service without any hours of sick leave.]~~

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066**  
**Informational Statement**  
**LCB File No. R024-16**

**1. A clear and concise explanation of the need for the adopted regulation.**

The amendments included in this LCB File are necessary to address the treatment of leave balances of nonclassified employees, Nevada System of Higher Education employees, and any employees of a governmental agency acquired for administration by the State when the employees are appointed to a nonclassified, unclassified, or classified position without a break in service. As this type of movement is not frequent, questions have occurred as to the rights of these employees; these amendments will ensure consistency in the future.

The first substantive amendment strikes the term “unclassified employee” as used in relationship to positions in the Nevada System of Higher Education. This language is confusing as such a term is not used within the System. It has been replaced with “employees occupying a position within the Nevada System of Higher Education” in both regulations to clarify that all Nevada System of Higher Education employees may transfer their leave balances to their new appointment.

The amendments also propose to remove the requirement to recalculate leave balances when such movement occurs. These provisions had previously been included as Nevada System of Higher Education employees that are not in the classified service and employees of a governmental agency acquired for administration by the State may have had leave accrual rates that are different than those provided for employees in the classified and unclassified service. These amendments will simplify this process and reduce staff time required to make the recalculation. The amended regulations will now just allow employees to transfer over an amount of annual leave that does not to exceed the accrual rate of a classified or unclassified employee and all of his or her accrued sick leave.

**2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

On November 8, 2016, copies of the proposed regulation amendments were sent by email to persons who were known to have an interest in the subject of proposed personnel regulation changes as well as any person who had specifically requested such notice via Listserv. These documents were also made available on the Division of Human Resource Management’s website, the Nevada Public Notice website, the Legislative Counsel Bureau’s website, and mailed to all county libraries in Nevada, and posted at the following locations:

Blasdel Building  
209 E. Musser Street  
Carson City, NV

Legislative Counsel Bureau  
401 S. Carson Street  
Carson City, NV

Nevada State Library and Archives  
100 N. Stewart Street  
Carson City, NV

Gaming Control Board  
1919 College Parkway  
Carson City, NV

Nevada State Capitol Building  
101 N. Carson Street  
Carson City, NV

Grant Sawyer Building  
555 E. Washington Avenue  
Las Vegas, NV

A regulation workshop was conducted by the Division of Human Resource Management on January 27, 2016. A public hearing was held by the Nevada Personnel Commission on December 9, 2016.

During the workshop held on January 27, 2016, comment in support of the changes was received from an employee of the Nevada System of Higher Education. Additionally, comment was received from the Senior Associate Vice President and Chief HR Officer of the College of Southern Nevada requesting that the regulations be amended to either eliminate or limit the recalculation of annual and/or sick leave when employees transfer without a break in service. The draft proposed at the workshop was revised in response to this request and after further consideration. No comment was received in opposition to the amendments.

At the public hearing, staff provided information regarding the intent and need for the regulations.

Written minutes and comments from the regulation workshop and public hearing can be obtained from the Division of Human Resource Management by contacting Shelley Blotter at [sblotter@admin.nv.gov](mailto:sblotter@admin.nv.gov) or by calling (775) 684-0105.

**3. The number of persons who:**

- (a) Attended each hearing: - 15**
- (b) Testified at each hearing: - 1**
- (c) Submitted written comments: - 0**

**4. Following is a list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3(b):**

Carrie Hughes, Personnel Analyst  
State of Nevada  
Department of Administration  
Division of Human Resource Management  
100 N. Stewart Street  
Carson City, NV 89701  
(775) 684-0111  
[cphughes@admin.nv.gov](mailto:cphughes@admin.nv.gov)

- 5. A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were not solicited from businesses, as the regulation does not affect businesses. Comments were solicited from effected parties including employees and employee associations. Written minutes and comments from the workshop and public hearing can be obtained as instructed in the response to question #2.

- 6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The proposed regulation changed following the workshop based upon additional research and comments received. There was no opposition to the regulation at the Personnel Commission hearing.

- 7. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**  
**(a) Both adverse and beneficial effects; and**  
**(b) Both immediate and long-term effects.**

This regulation does not have a direct economic effect on either a regulated business or the public.

- 8. The estimated cost to the agency for enforcement of the proposed regulation:**

There is no additional cost to the agency for enforcement of this regulation.

- 9. A description of any regulations of other State or governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

This regulation does not overlap or duplicate any State or federal regulations.

- 10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

The regulation does not include any provisions that are covered by any federal regulations.

- 11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

No fees are associated with this regulation.